

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ELIJAH DWAYNE JOUBERT,	§	
	§	
Petitioner,	§	
	§	
v.	§	CAUSE NO. 4:13-cv-03002
	§	
BOBBY LUMPKIN, Director, Texas	§	
Department of Criminal Justice, Criminal Institutions Division,	§	
	§	CAPITAL HABEAS CASE
	§	
Respondent.	§	

**PETITIONER'S UNOPPOSED MOTION FOR 1-WEEK EXTENSION OF
TIME TO FILE SECOND AMENDED PETITION**

Through counsel, Petitioner Elijah Dwayne Joubert moves this Court to grant his unopposed request for a one-week extension of time to file a second amended habeas petition. Mr. Joubert's amendment is currently due on or before July 6, 2022. Respondent does not oppose the relief sought herein which would make the amendment due July 13, 2022. Mr. Joubert submits the extension is reasonable and justified by the circumstances set out below.

By order filed October 15, 2015, this Court stayed and administratively closed these proceedings to give Mr. Joubert an opportunity to exhaust unexhausted claims. Order, ECF No. 41, at 2. The Court directed that Mr. Joubert move to reopen the case within 30 days of the conclusion of state review. *Ibid.* Finally, the order granted Respondent's motion to suspend the briefing schedule and directed the parties to submit a joint proposed scheduling order. *Ibid.* The parties complied with this Court's orders

and on September 9, 2021, the Court entered a jointly proposed scheduling order giving Mr. Joubert until January 7, 2022, to file a second amended petition. ECF No. 64. On January 4, 2022, this Court granted Mr. Joubert's first motion for extension of time to file the second amended petition. ECF No. 66. On February 22, 2022, this Court granted Mr. Joubert's second motion for extension of time setting the deadline to file the amended petition for May 7, 2022. ECF No. 68. Lastly, on April 26, 2022, this Court granted another request from Mr. Joubert for an extension of time to file, extending the deadline to July 6, 2022. ECF No. 70.

Counsel have nearly completed Mr. Joubert's second amended petition but need a short amount of additional time. Ordinarily, the time counsel requested would have been sufficient. But in the past two weeks, one of Mr. Joubert's attorney contracted COVID-19. Then counsel's children contracted the virus. Counsel's symptoms and the need to care for the children prevented him from contributing to Mr. Joubert's petition for more than a week. Although counsel have made up for some of that lost time, this extension is necessary.

A brief, seven-day extension of the current deadline is sought to account for the time that counsel was unable to perform the work necessary to meet the Court's deadline. Such an extension would make Mr. Joubert's amendment due no later than July 13, 2022.

CERTIFICATE OF CONFERENCE

On June 30, 2022, counsel for Mr. Joubert conferred with counsel for Respondent, Assistant Attorney General Matthew Ottoway, who authorized Petitioner to state that Respondent does not oppose the relief sought in this Motion.

FOR THESE REASONS, Mr. Joubert respectfully requests this Court enter the attached proposed order.

DATED: June 30, 2022.

Respectfully submitted,

MAUREEN FRANCO
FEDERAL PUBLIC DEFENDER

/s/Tivon Schardl
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CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of June, 2022, I electronically filed the foregoing Motion with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/*Tivon Schardl*
Tivon Schardl